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Sept 8

Trip home on plane. I feel us in control of the case in way I have not felt before. The entire dynamic seems to favor us, and as we get down to the wire, they are playing to lose and everything they seem to try backfires. These are the points:

Pablo and Luis are just stunning in their competence. The design of the PG is brilliant, and I just don't see any way T can get around it. I am so glad they did not listen to me. Even the encuesta, which I thought would be a waste, is going to turn out incredible

No matter what accusation they make, we control the frame of the debate. They just cannot get around the visuals, the fact they did this, and the fact their only defenses are technical. They are a big oil company.

Our team is incredibly strong even below the legal level. Lupita, Garces, and Yepez work great together. The only one who has worsened with time is APV. The experience we have gotten by fighting through their delays has made us so much better. And the expertise we can draw on – Pocho with YouTube, Augustin with HAVOC, various ministers and government people.

Joseph Mutti is back – our website is stronger than ever.

Any bad thing I was worried about almost doesn't matter. If the judge is recused, the PG will still go on. If they inspect HAVOC, it won't matter because that lab only sampled a small portion of the evidence. This is a train hurtling down the tracks and they cannot control.

Other thoughts and events on this trip: meeting with Coalition, SRD speech about how three ways to lose – we don't win; we “win” at a miniscule level; or the trial never ends. Our biggest weakness is the fact one judge must decide. But now T has united court against it by asking for recusal. It looks desperate.

Sept 5 2007 (big gap)

Just arrived in Quito last night after being away for one month. The tenor of the case has changed. I can see the light at the end of the tunnel, but the last mile of the marathon is the hardest. Texaco has kicked it into high gear in an effort to destroy the legitimacy of the process. This has two goals: to set it up so they have an argument on appeal in Ecuador, and ultimately, to have an argument in the U.S. when we move to enforce a judgment. And, if they can accomplish it, to derail the trial itself to prevent it from finishing. I want to set up a special projects legal entity to handle non-case related stuff –

from the Fiscalia, to lawyer complaints, to the peripheral stuff that will keep Texaco off guard and consume resources and energy, like they are trying to do with us. We have not done that for a while. Texaco has mounted a major press effort with AP and the international agencies (where they write one-source stories, like the one quoting Sylvia Garriga) that came out on Monday.

Talked to Eric Bloom last week about their strategy. There are now three legal actions – the Lago case, the Sand matter, and the Hague arbitration over royalties. There is also the Bonifaz SF case that factors into this. The Hague matter was a case concocted to put pressure on the Ecuador government on the underlying Lago case. It concerns 7 lawsuits that Texaco filed against Ecuador in the early 1990s over a dispute about royalties. The courts never did anything, the cases never moved, and not Texaco is claiming “denial of justice” under the Bilateral Investment Treaty it has with the U.S. They are trying to claim the dismissal of the entire Supreme Court under Gutierrez is an example of a total lack of judicial independence. The problem is that in the latest version of the Sand matter, the Winston lawyers gave Texaco a hanging curve ball to raise this issue – arguing that what is left of that extremely thin case at this point should be sent back to Ecuador under FNC – the irony of ironies, given that this was Texaco’s argument back in the 1990s when we wanted jurisdiction in the U.S. In terms of the Sand matter, there is a hearing on Sept 19 in New York where Chevron is going to dump on the court (on Sept 17) a ton of materials relating to how perverted Ecuador’s local system of justice has become. They are not using the Lago Case (recusacion of judge, attacking the perito) to manufacture “facts on the ground” that can support their position in the Sand matter and elsewhere. And the Bonifaz fiasco has given them more fuel, because Judge Alsup fell into the trap and said the case seemed like part of “larger” effort to taking place in various courts to hurt the company. If Sand rules as a result that there is no “adequate alternative forum” he can take up the entire matter in his court, and they can use that later when we try to enforce a judgment. The Winston lawyers inadvertently gave them a gift! All of these cases could rise and fall on the issue of adequacy of justice in Ecuador.

Sand will likely rule by the beginning of October. Half of the Sand matter is already up in the Second Circuit. Winston has filed a motion to dismiss on the rest, claiming lack of subject matter jurisdiction, given that the counterclaims were tied to the original arbitration claim which Texaco lost. If Sand fails to dismiss, there could be a trial on those claims. So Chevron is still on life support in New York and licking their chops in the Hague

May 25, 2007

Trudie trip. Flying back. Fly down with her and Theresa. Visit Cofan and Siona communities (get transcript). San Carlos (met with Rosa); La Primavera (Carmen Perez, who was in SF shareholder meeting two years ago and who is a strong leader of the community). Trudie is a kind, passionate woman... proud to be the wife of a famous singer and not shy about using that status to help. Came with Helen, the kind Rainforest Fdt person. Trudie’s presence was generally uplifting, but as with most celebrities,

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May 25, 2007

Trudie trip. Flying back. Fly down with her and Theresa. Visit Cofan and Siona communities (get transcript). San Carlos (met with Rosa); La Primavera (Carmen Perez, who was in SF shareholder meeting two years ago and who is a strong leader of the community). Trudie is a kind, passionate woman... proud to be the wife of a famous singer and not shy about using that status to help. Came with Helen, the kind Rainforest Fdt person. Trudie's presence was generally uplifting, but as with most celebrities, somewhat complicated. Mention issue of Guay museum gift shop, flirting with Acosta at dinner with his wife across the table. Trudie's method of dealing with me is generally very seductive. She has a need to know that each man around her is attracted to her, and she is good at turning it on so each man is. She makes constant jokes with sexual overtones (when toasting look in the eyes or you might not have sex for seven years). Such a cultural disconnect – buying the trinkets in Dureno, making people stay outside of the meeting, too many people, trying to buy stuff in the Guay museum etc. None of these people had heard of Sting and could have given a damn. (Get transcripts of historic renditions.)

Two very disturbing meetings with Judge in Lago on May 21. First with Trudie and Luis – Yanez full of his charm and bullshit, starts blaming Texaco for filing too many papers. And then that night, I saw another side of Pablo. He called to ask if I would call the judge so we could go see him at his house. PF had been in Dureno all day at the meeting, and had five motions to respond to, and had to get up at 6 a.m. the next day to go to the Siona meeting. He was exhausted, frustrated, demoralized. I called the judge and he asked that we bring over some whiskey or some wine. We didn't. When we got there, he was clearly drunk and had a young woman. He sat down and immediately looked at me and said Texaco knows what I am doing and not doing every second of the day, that Texaco intelligence agents have been following him, and that they knew we had met that day in the garage downstairs with Pablo and Julio. Richard the perito was in Lago that very day to take possession, and the judge delayed it when Texaco put in more papers, all repeating previous objections, that very day. He was setting it up to explain why it is justified that this be delayed further. PF was visibly distressed in the plastic chairs, leaning forward, almost pleading with him while fighting back his temper, explaining how much money these delays are costing us. The judge accused him of lying about the costs. I think the entire being of this judge is devoted to surviving this year and getting out of this case without making any major decisions. I think he fears Texaco more than he fears us, and the fact we have set up Richard in the perfect way probably scares the hell out of him because he knows what Texaco is planning. I walked out of that meeting and my overriding feeling was that we cannot win the case, that the Operation Maria settlement talks are the only realistic way out for us.

UNICEF, toasts at dinner, Perkins speech, Acosta idea, increasingly difficult to manage from afar

May 3, 2007

Had great day yesterday. Office in very celebratory mood; when I got there we sat around and shot the shit about the President's trip. Everybody is feeling good about the achievement. We had staff-wide meeting where I said: "Hemos logrado mucho, pero no hemos ganado nada." Saw some of the saturation media in Ecuador, and saws the press conference on the President's web site on the Internet and it was very effective. As Luis said, he kept to our talking points. He had the Vanity Fair article, looked at the picture, and looked at Pablo on the copter. Called out Pareja, asked for report on the difference between 17m and 3m cost for various clean-up things. Talked about Trudie trip. Explained doing encuesta, against my earlier wishes, which was weird, but I am down with it. Luis and Pablo are going to be asked to be candidates for the Asamblea Constituyente. The process continues.

May 2, 2007

Back in Ecuador for a 3-day trip, with huge challenges and tensions developing. The challenges are getting a grip on the PG, and integrating the Americans with the Ecuadorians under a common vision of shared work and goals. Pablo could not attend the Stratus meeting last week in Boulder because he had to leave because of Correa's visit, which hurts us. So once again, we are stuck with a situation where I (the North American) has to come down to explain why other North Americans, who get paid many times more than Ecuadorians, need to come down and help with the project. I was hoping Pablo could see for himself and help me explain. This tension is exacerbated by the fact Pablo told me in San Fran that he and Luis had ordered a study of "social impacts" without telling me because they thought I was opposed to it. In fact, they did not tell me this during our retreat at the beach. Further, Operation Maria seems stalled as we could not get a meeting date that all could agree on, and the next Sand hearing is on May 21 which is making it difficult for Cullen to make the time. Further, AW and RAN and the Frente were in their face during the AGM, and it is obvious the company is very angry, which makes me think they might be pulling back.

Luis sent me a very angry email last week when I was in San Fran (on Sunday, April 22) which stopped me in my tracks when I read it on my Blackberry. He had hung up on me the previous Thursday when I questioned a budget issue related to a 300% bonus for technical workers who go to the campo. I later ordered than Tania stay in Quito to work with Laura and John on the data base. Luis has a huge amount of anger toward me, and I fear it has become exacerbated as of late, with the trip of Correa giving him "huevos" to

express his anger toward all of the USA via the symbol of me. It probably frustrates him that the project (and he) is so dependent on “gringos”. Instead of seeing us as true collaborators (which I often feel but don’t feel know), he often sees me as an interloper, especially given my strong personality.

I have a lot of anger myself, as I feel disrespected and unable to carry out the best work possible because of an anti-gringo animus.

Trip to San Francisc; Mike Brune; telling Raul; telling AW; meeting Stratus; Trudie

April 12, 2007

Returning on LAN flight. The following happened:

Generally, Operation Maria (named after the San Carlos witness who died) – in terms of the gov participation – is more problematic than I thought. First, Acosta is losing ground internally to Pareja and he is threatening to quit, and he is our main entry point. Second, I talked to Ermil Chavez and it seems more and more clear that the Cereip fund has been captured by Ecuadorian politics and the money is not going to the region. Ermil doesn’t even have 1,000 dollars necessary for the mesa ambiente of the asamblea bi-provincial to meet. (Read his letter explaining all.) Third, we need the cooperation of PE and the new guy is so anti-environment that we cannot even get a meeting. The upshot is that the government is giving less money than we thought, which hurts in leverage with Chevron in the negotiations. Moreover, it is unclear how much control anybody can have of the beast so it adheres to one line and adopts a position that allows a settlement to happen. This is a political system with almost no executive control.

Second, the more I ponder it, the more anger bubbles up over the last meeting with Scott and Cullen. Scott’s “sanctity of contract” concern was such bullshit – like he is the one to determine what that contract meant. He still doesn’t get that this is a private lawsuit that has nothing to do with what the government did or did not do. I bought into it too much in an effort to keep the feelings good during the meeting, and now I am angry at myself, similar to that now familiar pattern in my family and with my father. Further, his entire approach to settlement was a mixture of charity and anger at the government. There was no sense of acknowledgment of responsibility. It felt as if Scott has taken his child to the teacher to apologize, but that he just couldn’t bring himself to do it once he got in front of the teacher. He tried, but he couldn’t say the words. I have such a strong desire to confront him on so many points; Joe is holding me back, and I cannot tell if it is for our own good or not. I need to keep talking to Joe.

Perez Pallares is still at it with his lies. He responded to the Roldos article by taking out a paid advertisement in El Comercio with a signed letter to Vistazo and to Roldos, repeating his lies. Our communications team not only did not send it to me, they essentially ignored it. They never wrote a response, and the chap is so vulnerable to being attacked. I still have such problems with our team. They are just stuck in the mud, unable to think about how to attack and just sitting around waiting to be given directions.

It should be Rule #1 when Texaco published an article it gets responded to. Could anything be more clear? It has taken a week to get the VF article translated and ready to send out, and it still has not happened.

The meeting with Correa had one good point – it happened – and many bad points. First, three people have tried to take credit for setting it up—Lupita, MEY, and Juan Aulestia of all things (Juan is so full of shit sometimes). This is a perfect illustration of the utter immaturity and lack of cohesion on our team. The entire thing was chaotic and unprofessional – multiple people from our office dealing with different contacts; the fact that Lupita and MEY were there, and Pablo was not invited; and the idiotic comments made after by Minister Alban, that the government is committed to helping us with the proof. Texaco has not filed a motion before Sand asking to supplement the record with this information, and this has breathed new life into their position in the NY litigation.

Met with judge in Lago on April 10 – flew down on VIP, back by mid-day. Met in empty warehouse near his house, across from the TAME office in Lago Agrio. He seemed very agitated. Said we were not helping him. Richard needed to be inscrito, but not really. Pablo explained it to me – new law passed, required peritos to be inscribed in the court, but nobody had done it yet, and to hold firm to this new rule would be ridiculous, as it would mean there could be no peritos at all in Ecuador and all of those who had served in our trial would be nullified. Yet the judge is still concerned. Texaco called him and said, “Esta entregado a los indios.” Who knows how much they are harassing him. He seemed really nervous and freaked. Inspection happened on April 11 – lasted about 30 minutes, at station not operated by Texaco.

Plan for PG: consult memo. Looking for experts in different areas. Need more time in Ecuador, this is killing me. Talked to San Sebastian and to my surprise he is interested in helping. Need to see Stratus in Denver to get help, but worried about the money. Laura and John are helping with data base, which is critical. Maest was down. Unclear if we can pull it all together in the time frame allotted. Kelly McBride could be key I think. Lovely woman. So much need.

Beach trip to Landaluz was so much fun. Pablo and I really bonded. Scene about him sitting up in bed on Sunday morning, when we had to stay an extra day because of flights, saying he couldn't go to beach with Juan Diego because he felt guilty about not being in the human rights office in Shushufindi, where people were depending on him. We worked half-days, working through various issues, trying to catch up. Luis revealed he had told the dirigentes that we were meeting with Chevron, but he had never told me he told them. I think he thought I would be mad or something, but I trust his judgment on things like that.

I am feeling completely swamped. So much to do to deal with the two tracks.

April 4, 2007

Flying down on LAN in the empty first class cabin; getting gripe, drinking a lot of water and tea, listening to Elton John and reflecting. I am feeling very emotional these days, as I feel we have turned the corner and the opportunity is there for a historic accomplishment. On the other hand, I am freaked out because I don't feel we are ready for what is to come – the justification for the settlement, the attention as a result of the VF article, etc. Going on Semana Santa retreat with Pablo and Luis to the beach to figure out what to do with Chevron's suddenly conciliatory posture. The question we have to answer is simple: what do we want from them? And how much would it cost? If we can't answer those two questions, we are not worthy of our responsibilities. And right now, we cannot answer them.

I had an incredible email with Russ this morning. He read the VF story. I told him the long term vision was to get Pablo into HLS, and get him back to Ecuador to start running the country. Russ wrote back that he wants to fund a beca in Pablo's name at HLS. It brought tears to my eyes, literally. Russ is a friend, the benefactor for whom I have been waiting for years. Compare with that other potential investor and the hassle he was giving me. Fuck them. I am going to get Russ to fund Pablo's human rights office in Sushufindi. Ross is funding the case. Russ is funding the movie. And Russ wants to fund more cases and more movies.

Intense argument with Laura last night. The travel and being away is taking its toll; we are not taking care of our relationship. I am very worried about this.

I sit back and dream. I cannot believe what we have accomplished. Important people interested in us. A new paradigm of not only a case, but how to do a case. Chevron wanting to settle. Billions of dollars on the table. A movie, a possible book. I cannot keep up with it all. Just four years ago I felt broke and hopeless, unable to gain traction.

I cannot wait to get off the plane and see my fellow soldiers – often the only people I feel who get me. I want to look in their eyes and see if they understand the enormity of what this team has accomplished.

March 19

Went to see Kohn today in Philadelphia to talk about our upcoming meeting on Monday with Cullen and Scott in New York. Good discussion at seafood place. Joe riffed with some good advice. When I asked how to answer when they ask how much, he said to talk in ranges – Type 1 case, once in lifetime, like Enron or Worldcome; Type 2 cases don't say anything; Type 3 is an automotive parts settlement for peeling paint, for \$106m; and Type 4 are little cases that settle for \$5m or \$10m. When they ask what type of case this is, he said somewhere between Type 1 and Type 2...to keep the range open, to get them engaged, to get them to feel there is something in there for both sides. Need building blocks – little things u can agree on. The China-U.S. diplomatic reapproachment

started with ping pong. Issue of what we can deliver in a release, role of gov of Ecuador. Make it simple for them is the key. Joe said a lot of great lawyers do not know how to settle cases. I see what he means – it is complicated, and for everybody on both sides (including me) it is often more comfortable to keep waging war than to deal with the hard realities of settlement. Regardless, we realize this could be highest settlement in the history of environmental law, and I think I convinced Joe that the absolute minimum we could accept would be 1b, and I suggested we ask for 3b. The weakness is we do not have the real plan yet – it is still in development, and I don't want us to be in a position where they ask us to produce a plan or put any burden on us to come up with some sort of justification. One thing is clear – my strategy of saying if you are not willing to think about billions, let's not waste our time, is not a wise move according to Joe. Joe's value is real obvious to me on this.

Team met with President Correa yesterday. Bad press release – covered by AP and Reuters, because it was not managed correctly by our team. APV was in the meeting, but I am not sure what he was doing. Classic case of how Ecuadorians do not understand the big picture of how actions in Ecuador can have legal implications in the U.S.

Spent last week in London with Russ – promised to invest \$1m.

March 7, 2007 (Wed)

Flying home today. Two big things have happened – E-tech is back in the game, and Champ and E-tech are working together; and press conference on Tuesday with Luis Macas.

Technical meeting on Sat in office: Richard there. Sat had all-day Tech meeting in the office – unusual for a “dia laboral” as Pablo put it. Richard and Fernando there, as was Ann, Dick, and Champ. Pablo delivered first; excellent, then Olga Lucia, the best I have seen her; then Champ. Great spirit and energy in the room. It made me realize how much we have accomplished. On Sunday lunch, went out to Mosaico (the four gringos, including me), and spent four hours there talking things through. Get interview transcript from Berlinger, because Charles was amazing. Elephant piss, Hummer, Ostrich boots – have to capture the personality of this guy. I love how he is the epitome of the can-do oil patch guy, while Ann is the ultimate academic. Teaming them up will either be a disaster or a stroke of genius – I am not sure which. Anyway, in terms of E-tech Ann realized how screwed up the data base was, so we have to fix that before starting the PG. Also, the lab problem. The new lab is in Coca. It is an Argentine lab, and they can't test for Chromium 6, plus unclear if they can resist being infiltrated. Ann is suggesting a U.S. lab, but that would be more time and expense and would be in effect admitting Texaco might have been correct about Havoc. I am not in as much of a rush to start the PG now that I see how screwy our info is, and how certain issues have not been worked out. I spend the whole day making comments and mostly directing them to Richard. We laid out our entire case and legal theory – what a benefit! We need to do the same with the judge. Richard seems low-key and cooler than a I thought. The key with Ricahrd

The PG will almost be a subset of the alegato, and the guts of it. Can we do this, and can we do it in a short time frame? I need to move to Quito and focus on the legal work. I need to do this. How will I get the time?

Monday prep for press conference: Luis Macas in Oriente. On Monday, prepared for press conference while LY with Macas in the el Oriente. Incredible how we can now do two major things on the same day – that is how much confidence LY and I have in each other. Finally, all five nationalities showed up for a meeting, including the Hua (at least part of the Hua); Macas drew them in. Then, LM came to press conference on Tuesday in Quito (yesterday). The press conf was powerful (get carpeta) – LM called for criminal investigation of the company, and said the judge had to move the case. We are stronger than ever; Texaco's pathetic response was RV all alone claiming there was no fraud, and lying again about the fraud, and they distributed it via an obscure website. Had farewell dinner with LY at Briciola, and you could see LY brimming with confidence and contentment. This was clearly not a situation where Macas was doing us a favor, but one with clear mutual benefits as the profile of the case moves higher. CONAIE can easily advise the nationalities on how to design a long-term strategy so the money is not all spent at once. LM is now clearly tight with LY. LY wants me to go with him and LM to Loja for an event with indigenous people, as that is the area that was the reason Lago Agrio was created, and where Macas is from. Great idea, I was totally flattered to be invited. LM has this incredible mysticism and charisma. But... he mentioned he met with the judge, and he said there could be mobilizations if the case is not moved faster. This has political benefits to us, but could hurt us legally. I had to pick up the mike and clean it up; get transcript.

While in Lago, LM and all the nationalities went to see Yanez. LY said Yanez treated them with the utmost respect. It is this parade of visitors that hopefully will get us the order to begin the PG.

I am utterly exhausted after working ten straight days, 18 hrs a day. I want to go to the Big East tourney tomorrow in the Garden. I have to give that to myself – yet there is so much still to do.

March 4 (Sunday)

Some much has happened the last three days. We are in a critical, pitched battle with Texaco – perhaps the most important example of hand to hand combat yet, that could easily determine if we can reach the final outcome.

Texaco press conf at La Union. T has press conference last Thursday for foreign media en Club La Union (get history). PP and the recently-arrived Varela put it on, apparently with some sort of epidemiologist whose name we could not nail down. We only found out about it after the fact, because the AP reporter called me for comment, which is unusual for us as we know most everything they do – they clearly are taking elaborate security measures to prevent us from knowing about their events, but keeping them small and very last-minute (this relates back to the Reis Veiga press conference in the Hotel Colon). Only three reporters went, but they hit the local jackpot because AP (Gonzalo)

bought it and wrote a big story that hit the wires in Spanish. Mercedes from Dow Jones also wrote a story, which prompted an email from Terrence Murray at Oil Daily (check to see if both stories went out in English). When MEY says nobody went, I explained it is not the number of people who attend PCs, but who; if you get AP to come and they write a story, you have had a successful PC even if no other media come. I am also trying to get them to understand the 24/7 Internet news cycle, and how we can self-publish and thousands of people (including our most valued audience, Texaco) can see what we say even if it never gets published in any newspaper. The lead of both stories was that Texaco dismissed any possibility of a settlement, of any type, at any time – which we know, given what is happening on Track 2 with Cullen, is complete bullshit. They are either lying, or the locals don't know – given logic and Cullen's insistence on complete confidentiality, my guess is they don't know – so when I saw the lead I laughed out loud, deeply. But deeper in the AP story was something much more problematic and disturbing – a direct attack by PP on the judge, saying he was going to possibly seek his recusal for “irregularities” – without really specifying what that was, other than some “pressure” by the Frente and the fact he wanted to start the GP without finishing the inspections first. And they are still fighting, now for the fifth time, the inspections battle over the 64 we got the judge to cancel. And Texaco has not done or even asked for an inspection since last April.

Analysis of T's weakness. Politically and with the press, I think the Texaco locals are in a real bind. It is more clear than ever they are fighting to save their lives, careers, and personal reputations thru this case – particularly PP and AC, who have devoted their careers to what they thought was a reputable American company, earned comparably great riches, and have not seen it all threatened to go up in flames in the next several months – precisely the time of PP's life that he wants to be sitting on a beach reading a book (see his quote in Outside Magazine). The bind is tight. First, they cannot leave this work, because their personal lives are too intertwined with the outcome of the case – which is something we wanted to happen, and a great achievement of ours these last three years. Second, this work is not fungible between persons. There is really nobody else who can do it but them, as nobody in Ecuador will publicly identify with Texaco at this point other than PP and AC, and the latter does not even talk to the press, another stupid company policy that is now coming back to haunt them (see William of VF). Finally, if they switched lawyers the fraud would be too obvious to the fresh eyes, and therefore the case would collapse and PP and RV know they would be the fall guys. I fully expect RV to be cast to the tigers as red meat some point soon; I see it coming, as Cullen was not shy about this nor was he shy about Dan King.

The terrible mistake for RV was again, overreaching. By initiating the NY litigation, his lies were exposed. Real lawyers entered the case – lawyers beholden to San Ramon, to the top management of the company, lawyers who were former partners with Charles James and Edward Scott and who are not going to bullshit them. Suddenly, RV could not control all the information. This was exacerbated for him by the critical decision – perhaps the greatest accomplishment yet for us – of convincing the Ec gov to hire Winston and Strawn, which suddenly forced Jones Day to look to look for scapegoats as the strategy went south – with RV being the obvious one. RV's internal team and outside consultants suddenly did not have 100% control of the information. And if you look at

the NY arguments on the 95 release, it is clear RV is either lying about what the release meant, or is a terrible lawyer for not making sure the release had the proper language to protect the company. Either way, he is screwed in the eyes of the company. T's entire argument in NY on the release issue is based on some incredibly thin, hearsay parol evidence recollection of one person trying to save his personal ass and who is the same person who is orchestrating the fraud. That is just a lousy trial strategy, and there is no way a sophisticated buy like Cullen is going to take the fall for losing the NY case. Because the reality is that the Jones Day lawyers did a great job with nothing, and they would have gotten away with the cover-up had we not convinced the Ec gov to enter the case with real lawyers.

We also have been end-running RV and his team with a press and internet strategy, using Amazon Watch as the surrogate, but also via our own websites that Joseph created. And beneath the fun and games of various press conferences was some real, hard data they could not ignore – the document I put together over a week last August, trying to bring together all the data (Chevron's Dirty Business), which even if ten people have read around the country, Texaco's lawyers have definitely read and dissected and thus far (7 months later) not been able to come up with an answer and have left it all to that anonymous public relations memo that has no documentation. The success of the "narrow" info battle is obvious to me, when I saw the piece of crap memo that Robertson gave William of VF – a memo that wouldn't pass a junior high school class test in my opinion, as it did not have even a single footnote. And the second memo given to William – the "consolidated materials" memo – had some rough footnotes, like "CONAIE 1983" that looked like a 5th grader put them in. The company is just tired; you see it in the materials. They are also limited by lack of good information and RV's lies and flawed analysis. And the "silo" approach that corporations take (lawyers do law, communications people do p.r., and nobody is in charge so everybody can run for the hills if something goes wrong) is really hurting them, in contrast to us, as we are completely integrated (as our latest boletin makes clear, timed with Track 2 in New York, helps us with strategy and politics in both countries). And given Winston's entrance to the NY case, RV's strategy over the last year has become a swamp from which there is no clear exit. Throw in the Correa election and the rest, and it is clear the risk calculus for the company has changed completely – it has to, unless they are asleep at the switch, which I know they are not. Throwing Varela into this pit has to be the ultimate lousy career stop, possibly a career-dooming assignment. But it reflects the desperation, the lack of options locally, and possibly the last dying gasp of a company quickly running out of options.

PPs attack on the judge at the press conference is a desperate act, but I still have that terrible sinking feeling (which I had on Friday night and Sat morning after the meeting with the judge) that the corruption and pressure are coming back and we have to divert resources now to protecting the judge politically rather than focus on the PG. If I were Texaco and my policy locally was being dictated by a bunch of self-interested, judgment-impaired lawyers, I would be doing this exact thing. If I were PP, I would be doing the same thing. And the reality is that T has cleverly and effectively delayed the PG for several weeks with its escritos (get from Pablo) that because of Ecuador civil law

procedure require the judge to jump thru a bunch of hoops to deal with this stuff before ordering the process.

On Friday night, Pablo and Luis met with the judge near the airport in his barrio in a restaurant. I was supposed to be there, but I couldn't find it and they said not to come thru Lupita, and they could not contact me about the new address because I had lost my cell phone. Anyway, they showed up at the Hotel around 11 and we went out to get some Shushi. They love Noe because a bunch of sexy woman go there, and they like the table in the middle of the restaurant to get the best view of people walking out to smoke and go to the bathroom. (A different kind of near-nudity than the Huarani woman the first day of the trial.) I was really pissed off at the news they reported – that the judge still did not want to rule, he needed protection, that a magistrate from the Supreme Ct was coming on Thursday to check him out given the denuncias, etc. Clearly, T's strategy is working.

The different pieces of the strategy to get us home have to work in concert, and the one element out of sync at the moment is the fact we don't have the order to begin the PG. This is the one thing left; if we can get thru this, we should be home free.

March 1

Judge still refuses to issue Providencia. Still problem with judge – no providencia yet, even though Pablo said it would come yesterday. Pablo returned to Lago and met with the judge. The secretary told him she got a call from an unknown magistrate of the Supreme Court telling him to slow down the environmental cases (our case and the OCP). We think this is complete bullshit; that nobody actually called, and that was part of Texaco's pressure via the secretary. Further, these pressures to remove the judge have mysteriously and suddenly heated up again, and we think Texaco is behind them. The bottom line is that the judge asked us for help to protect him, like we did last August. And two days ago, the judge called Richard and asked him to recommend a perito, which seemed odd to me if we had set it up that Richard would be appointed, but according to Pablo it is likely part of the judge's complicated plan to protect himself. In the meantime, all of our plans are on hold – the open shareholder's letter, the press boletin both here and up in the EU, and our press conference. My first notification was around 11 a.m.. We talked with Pablo again at 5 p.m., and I sort of realized at that point our precious equilibrium between inside/outside strategies is again out of whack. I just don't believe Luis and Pablo get the public part enough. Clearly the judge is a weak man who lives in fear, and right now he fears issuing the Providencia more than he fears not issuing it. And I am sure Reis Veiga and his team are fighting for their damn lives. I am not sure if I want to go to Ambato on Friday. I find this terribly frustrating – reminds me of the old days, and again reminds me of how hard it is going to be get our judgment even with everything in our favor.

Problem with Amazon Watch again. Just found our letter Leila wrote to Kimerling's group (Maharuk Nuahia) where they admitted mistakes and said the Frente does not represent all the afectados – handing a major victory to Kimerling. I wrote very strong letter in response, and I am pissed they did not show me this letter before. Luis is pissed too. They are so controlling – the Daryl Hannah trip coming up at the end of March

makes me nervous because they are equating problems in the south Oriente with the north, yet they rely on us to set up the meeting and to do press for them. Get me email for reference.

Feb 28 (Wed)

Met with Alberto Acosta with LY and PF. He is the model of what a public servant should be. Said he would help us with Venezuela meeting (we now have Acosta, the ambassador, and Vargos Pazzos on this); helping shape Petroecuador's position vis-à-vis the clean-up of its pits (they need to make a clear statement they do not accept responsibility, and that this is the responsibility of Texaco); and getting other ministers (health and bienestar social) to do concrete things to help the people. What we don't have is an analysis of gov expenditures in the region, which we will need to bring the gov into settlement talks. I told him about the Borja complaint to the DOJ – he did not know, and he seemed interested in that. Alberto was so efficient – he defined for us what we were looking for, with the intro from Luis. Also there was Lucia (lawyer who used to work at Accion Ecologica), and that woman Judy, who is head of the environmental section and who is a person I would like to get to know better.

Talked to Simeon – moving forward on open ltr to shareholders. Major prep for Sat meeting with Ann and Dick and Charles – really looking forward to it.

Feb 27 (Tuesday)

Varela back in Quito. Back in Quito (arrived Sunday night). Dinner with APV last night at Briciola. Said that his partner, VonReckow, represents a big company that manufactures soap and detergents and that they have a huge mansion in Quito that they are renting to Jamie Varela, who is now going to live in Quito fulltime and who has an office here. Perez Pallares was doing the deal, but when he found out Marianne works with the Ponce law firm, he refused to deal with her on a real estate deal! He called APV a “rojo subversive” -- take Callejas walking out when Luis spoke before the judge, and you have an increasingly embittered team. I am not sure what they expect Varela to do. My guess is they cannot get a national to speak on their behalf, so they had to turn to Varela. Also, I am sure PPallares probably said he could no longer carry it on his own, and asked for reinforcements. I see Varela as another delicious opportunity. He has no idea what he is in for, if we choose to go after him.

Texaco is curiously silent with the media. They seem absolutely defeated. Ortiz is probably moving on, giving that we are now attacking him. They are not buying ads anymore. They don't put out press releases – the last one (surely ordered by Reis) backfired in the NY court over their characterization of the fraud issue. I am pretty sure that Varela is here to pick up the slack, but he is an elite executive. What could they be thinking? Their options are so limited.

Meeting with Richard. Met at Mister Bagel with Fernando, Luis, Pablo and Richard. Met for one hour. Explained everything. I have a lot of confidence in Richard – more than before. He is humble, quiet – I think I even like him more than Fernando. I asked

Pablo if he was 100% sure the judge would appt Richard and not Echeverria, and he said yes, but given that this is the most important decision of the case thus far, there is simply no margin for error. Did the build up about the importance of the case, what it means for history, how we can do something that we will always be remembered for, what this would mean for the country and world, etc. That always works at the opportune moment.

Met with Luis and Pablo Sunday night and yesterday and brought them up to speed. Most importantly, we are working harder than ever. The more I think about it, the more important it is to hit them harder than ever now if we expect to get anything meaningful out of the negotiations. I am sure these negotiations are taking place at a high level, and that the local Texaco team is not aware of them. The higher ups do not want to demoralize the locals or give Reis a chance to sabotage. The more I think about it, the more convinced I am that neither Luis nor Pablo should be a part of the nuts and bolts of the talks. Just like they don't bring O'Reilly, we shouldn't bring our big guns – at least not until the end. If this leads to anything, though, I want Pablo and Luis to sign with O'Reilly. Also, talked to Pablo and Luis about life rights – joked about the 10,000 not going up by adding them, Pablo used the taxi analogy to airport with the woman as an example – and we agreed to work together if anybody approached any of us for life rights. They have a lot to deal with – it could hurt us if 6 months from now there is a real offer, and they have to tell the people the meetings have been going on without them for a long time; on the other hand, without confidentiality, this process cannot be productive. It is a real dilemma. But given our trust levels, I think we can keep it confidential and explain why later if there is something good to offer.

Met yesterday with the Venezuelan ambassador. Third time I have seen him this year – first at the Morales celebration at the Guay, second at the VPazos bbq, and now yesterday at his office with Lupita. He was incredibly nice. We invited him to the zona, and I told him (against Raul's advice) about our desire to have that phone call made. He said he could set up the meeting for us with the Minister of Energy in Venezuela. This is the beginning of the opening of a real front. The other part is that I just sent an open letter to shareholders to post on the AW site, where we talk about the possibility of investment opties being shut off in Latin America. I hope AW goes for it. They are a little of their depth, but this is where the rubber meets the road.

Issue of filing CB bar complaint and what that means in terms of money. It is not money, just a basic principle of justice.

As smart as Cullen is, he gives us clues that give us confidence.

Feb 24 (Saturday)

Cullen calls Joe. Unbelievable... just as I thought. Cullen called Joe yesterday. This is the first time in the history of the 13-year-old case they have called us. They said they want to meet. Cullen wants to bring Edward Scott, who he said works closely with James. Scott was the author of that awful ltr to Amazon Watch in 2005 after the shareholder's meeting. Joe said he and I would attend from our side. We are planning to do it the week of March 12, probably in D.C. or New York. According to Joe's version of the msg Cullen left on his voice mail, he said in reference to the Ec gov that they need "either money or some commitment to change their evil ways... it doesn't do us any good to clean up if they keep pissing in the drinking water." Apparently he is already making one major concession – they don't need money from the Ecuadorian government. Agreed it would be premature to have a three-way meeting, and insisted on confidentiality. But Joe said at one point the dynamic was Tex and the gov against us; now it is us and the gov against Texaco; Joe suggested we try a third dynamic – us and Texaco, and then bring in the government. Clever, but it makes me nervous – Joe doesn't get sensitivities in Ecuador dealing with perceptions of foreigners, the politics of the base communities, etc., but certainly an effective concept to get them to relax and try to work with us. He said Scott works closely with James and can reach the people in Ecuador. Do not want shareholders to know, and want some sort of solution where everyone can hold their head high. Joe again impressed on me the importance of confidentiality. "There is a tendency to tell people you are in discussions with Chevron... resist it."

This raises all sorts of scary issues again. First, the personal – how do you start down a road that could end something that has so defined one's life for so long? I find myself taking deep breaths just thinking about it. How do we get out of the rut of the fight, and start thinking about peace? How do we come to an agreement before we end, before the trial we fought so hard to have plays out completely? Don't we want total victory? Are we even ready to know what we want? I am beginning to have doubts about the Champs proposal, after talking to Ann and Quarles; plus William said he seemed a little flojo in the interview. The psychology is probably no different than Israel and the Pals... people get so entrenched psychologically and otherwise in fighting, it becomes difficult to step out and start thinking about the other way. The very *process* of doing that can be difficult in and of itself, apart from the substantive issues. In my own head, it is not even more important to maintain the strength of the two-track process – slam them as always on the trial, while talking. The two are totally related. The amount we can get by talking is completely related to how they perceive our prospects at trial.

Why is this happening? I think William's questions were the tipping point, but it was the slow slog the last three years that has gotten us to this point where William would even matter. That is pure speculation, but I know how companies work and I know from Robertson's emails to William this has put a major fear into them. Combine that with Winston's splendid performance on Feb. 13 and the delay of that trial, the fast-tracking of the Lago trial and the SEC investigation, the situation with Correa and the possibility of this anti-Chevron virus spreading throughout the Continent, and one can see how the perfect storm has developed for us. And judging from Cullen's remarks, Reis Veiga is totally on the outs... and he might not even know about these discussions. Note how Robertson is desperately trying to cover his own ass by essentially begging William to go to Houston for an all-day meeting with Reis Veiga and Sara McMillen.

Feeling sorry about Reis Veiga: I am realizing how cornered Reis Veiga is or could be very soon... how so much of this is on his shoulders. Cullen seems to treat him with disdain – “this will be the first line of his obituary”. How they used him all these years, and now I have no doubt they will throw him out on the sidewalk like a piece of spoiled meat if necessary. That guy has been fighting for his career this entire 16-year-period. I almost feel sorry for him, because I know how hard he has fought for his position and to save his own ass – I might be the only person who knows how hard he has fought, and who can relate to how hard he has fought. He has to be getting desperate. I think they are beginning to realize more and more how much he has lied to them, and how he has put his personal interests above those of the integrity of the company.

Talked to Carlos the Spanish guy: Great guy, wants to do all sorts of great things, including encuesta of 1,200 people, do a literature research, etc. Not sure we have time or budget. Scares me, but I want it. I want to finish this with the PG and the alegato just so historians can study this for all time.

Ann Maest: I am realizing again how much I need her. She talked to William for two hours. Finally, I understand the difference between TPH and TPH-DRO and GRO. The latter are used to measure refined petroleum products, not crude. Yet that is what Texaco uses in its sampling as part of their deceptive practices. It captures a tiny fraction of the overall TPH, so that is their way of trying to keep the number down. She also said the salinity of the produced water in Ecuador is an average of 30,500, whereas the maximum in California is 1,000. William is getting this information to attack the argument that Chevron makes that it dumps produced water in California. Also, she told William about PRPs (potentially responsible parties), consultants who are adept at ways to get around regulations.

Pablo and Lago case: He said Richard said Texaco was already starting to investigate him. Judge has done nothing; hopefully, it will happen this coming week after the long slog of months and months. The latest excuse is that the court secretary (get her name) was out sick, so she couldn't execute the providencia. Then, he issues a providencia on Thursday that apparently said very little, but set him up further to appoint the perito in the next one.

Eric Bloom: Long talk with him on Wednesday where we finally caught up and deconstructed what happened on the 13th before Sand. Eric's feeling is we are going to win on SJ on the counterclaim (which is the release issue – Chevron has essentially had to give up its argument on the 99 Law, and now has a strict liability theory on the release itself). Eric said he thought the key issue on the JOA was Cullen's clever argument that the 1995 Settlement agreement ratifies the 1965 JOA, even if the JOA was illegal under Ecuadorian law. On Sand's first question (what happens if the parties are abiding by an illegal contract for many years), Eric said the remedy is not enforcement of the contract but disgorgement of any benefits, and that there is no authority in the law to make the contract whole. Eric said the SJ process was good for us – the more briefing, the better for us because it gave us more oppty to break down their smoke and mirrors strategy. He also said the fraud argument turned out well for us because a) it got traction without us having to back it up; b) it was reinforced by the intervenors, who trashed Texaco, which

helped us, yet by Winston opposing the intervenors it made the gov look mature and put distance between the gov and the plaintiffs, and cured some of the Bonifaz damage; c) it allows them better chance to get rid of all evidence in motion in limine about what a great job they did in the remediation. I love Eric. I knew it the day I met him – that he would be a key linchpin in our strategy on this front. The entire Winston team did an incredible job. The bottom line is, they put quicksand under Chevron. There is now no clear exit. It is one more door shut.

Long talk with local team. I sent email on what each minister should do under plan. They are moving forward. Chang wants to take lead. We have a lot of work to do.

David Sherman talk/investors: He thought initial terms good. I am worried word will get out, because this plays into Chevron's hands that we are business interested in money

Feb 20

Excitement over reading William's email to Chevron. I think the chances of Cullen calling us back just went up. However, I don't think Chevron will call that quickly... there is too much entrenched inertia against us, and I am convinced it will take more time to turn around.

I am worried about the court. We still have not gotten the order from the judge. Pablo sent the escrito to the court last week and spoke to the judge. He thinks it will come tomorrow (Wed) after the two-day Ecuador holiday. Said delayed a week because judge had to report to the Judicatura to respond to some attempt to remove him, which Pablo insists does not come from Texaco. Said he saw judge a little wasted in Lago with a woman, and they talked. Pablo is impugning all dirimientes, hoping to get Fernando. He is worried Texaco will impugn the studio... worried? Of course they will impugn it. If they don't, it means we lose because it won't say anything.

Feb 15.07 (Thursday)

Critical week... perhaps a breakthrough week. Here we go:

Got home Monday night. Went to Sand hearing Tuesday afternoon. Get transcript. Neil was awful, lining of his jacket hanging out, couldn't answer fundamental questions, completely technical without any storyline. Bunch of white lawyers, no mention of humans, as Cullen said, this is not about dirt in Ecuador, it is about a contract and how to interpret it. Four for Winston (Neil, Eric, Raul, Manny) at counsel table, and then three for Chevron, then three Chevron lawyers in the Gallery, plus me and Kohn in the very back, plus the two NYU students, Joe and Richard, and a woman and another buy who were getting water for the Chevron troops, etc. Get Chevron "book" from Neil and Eric. Tons of 3-spiral notebooks, Fisher and Kolis sitting next to Cullen. Texaco General Counsel in front row (black guy). Neil started, no narrative... recounts various contracts. Nothing about people, about humanity in Ecuador, about what Texaco is doing is just another step in this grotesque narrative. Neil did not know answer to Sand question;

Sand question reflect buy-in to Texaco philosophy. Neil's position is that the JOA terminated by law in 1973. Used "lurk in weeds" and "assumption by ambush". Sand looked like a dying Jesus Christ up there – slow, hard of hearing, hunched over when he left the court, impatiently telling everybody to sit when they stood when he entered the court.

Cullen argument was awesome, folksy, conversational, with a narrative, cited Otter at Animal House. Relied heavily on the Teran letter. This is the linchpin of Reis Veiga's fraud at that time. Cannot help but notice the little Poland Spring water bottles. Sand did not ask one hard question of Cullen. Eric finished and made a good comeback. The best victory was further delay of the trial, now until May at the earliest. This will allow us time to finish Lago first. Went to City Hall bar after and talked it through; Joe had written an outline for the meeting with Cullen.

Next day (Feb 14) a huge Valentine winter storm roiled New York. I was up at 5 a.m. to prepare for the Cullen meeting. After listening to Joe's outline yesterday (he spoke for only 5 minutes before the Winston lawyers showed up), I was really nervous he would sell us short in his desperation to entice them into a deal. So I prepared an entire presentation. Lehane had told me Lerach has no problem putting a multi-billion dollar number out, and that we should not either. I had the whole dynamic worked out in my head. I was just worried I could not get Joe to go along, and or that Joe would undermine the approach in the meeting. Met Joe at 7:30 at the Lowell Hotel for breakfast. Elegant – bagel, two orange juices, and a tea cost 43.08 before tip. Another example of the range of wacky environments I have to function in. We had an hour to get on the same page. Joe started as a friend and uncle, quoting his Dad: he said I seemed a little torqued, that I needed to be really cool, because in these meetings once you say something you cannot take it back. If u remember, in that phone call in Quito a few weeks back he acted like the gov could put in 600m if they were doing it already, and chevron could put in 200m and would have our deal – and I responded in an email that I didn't think we needed the gov to be involved at all, or if they were, at most 10 or 20% max of the total. Not only would anything more be unfair, but the reality is it would never fly in Ecuador. I emphasized to Joe that the real bottom line number was 3.5 to 4 billion, and if a number comes up, that should be the number we mention. To do anything else, given that we have worked with Russell's number all of these years, would make us look like fools. But the time we finished the breakfast, we were comfortable and I was more ready to sit back and watch the show rather than lead (talk here about leading v. secondary role in history of the case).

Got to Jones Day in blinding snowstorm. On 40th St between 2nd and 3rd. Cullen met us – he was the warm guy I remembered from court the day before, with navy blue suit, light blue shirt, solid blue tie. We went into a small conference room with no set up – not a good sign. Went into some little kitchen, and opened the fridge – all there was was a case of beer and some like milk things for coffee. Joe made a reference to Animal House, and said he felt like the fridge looked like a college dorm kitchen. We all laughed.

In meeting, Joe opened and said the magic words: we believe we will get a multi-billion judgment within one year. “We are looking for a partner in peace” Ok, that was all we needed to set the right tone. Cullen indicated this was going on a long time by making a joke that we don’t want our children or grandchildren to be litigating it. He made some surprising admissions: that AW really bothered them, that he got calls all the time from Chevron when AW was doing street theatre out front, and he told them to just chill out, you will never satisfy these groups, don’t even bother chasing them or trying to win their approval. Talked about working groups, structure; he made it clear they could not just write a check, that they would have have assurances the money would be spent wisely, as whether they liked it or not, the work would be identified with Chevron. Dissed Reis Veiga: said the first line of his obituary would be this, and said he could not be able to get near any discussions if they were to be successful, but he also said I would not be able to be there either, perhaps – so I made a joke about it, and we laughed. RV is isolated, and he had no problem letting me know that. He called Dan King a moron. I also made another joke, and he laughed his ass off – I said I swear I have not met with anybody from the government (in the context of explaining that the new gov is favorable to us). He said, “As I tell my kids, if you’re going to lie, lie big.” He left it that he would get back to that guy James, the black guy in the front row (from upper management and apparently above Edward Scott) in court, whom he described as “dispassionate”. He said he had to leave around 10:20 to catch the Acela back to D.C. The meeting was short, to the point, warm, and I think productive. It accomplished our main goal: he could see we were not freaks, we were people who could compromise. When I explained the fraud on the remediation he admitted it bothered them.

So what is the upshot? Joe thinks there is an 85% chance they won’t get back to us. I’m not so sure. This is a dynamic, fluid process; the key is, there is not a line of communication with a real human being, somebody who seems like he has some distance. Thus, whenever they are ready, they now know it can happen. Those who said we cannot be dealt with at all, thus justifying never talking, are going to be more isolated in the company. This is what I call significant progress, even if we don’t get a call from them anytime soon. I wonder how my portrayal in the Outside mag article will factor into it.

Interesting the relationship b/w Lago and New York. The biggest victory was the delay of the trial date – something Cullen asked for, as did Neil. This leads me to conclude that Reis Veiga is still running the Lago trial team for Chevron, driving them hard, thinking the March 1 date will be their magic bullet. The fact that Cullen did not seem in any hurry up in New York tells me that Reis Veiga is operating independently of him, and the trial strategies in Lago and New York are not as closely intertwined as I had thought.

Feb 12. 07 (Monday)

Flying home on LAN. Pins and Needles with Sand hearing tomorrow and then meeting with Cullen on Wednesday. Went over Texaco document with William in the airport restaurant. That shit makes me sick. However, I still think we have problems with our lab and that concerns me.

Flew down to Lago on Friday after a terrible night's sleep. We were in Guay last Thursday, and calling out the terrible threesome made me nervous throughout the night. I realize I had been holding back re: Ortiz, perhaps because of Carmen, perhaps because of my initial meeting with him at the first inspection, but I have been holding back too long.

Key legal issue on Friday: who will be the perito? According to Pablo, 22 people could be it. Judge eliminated 15 from both sides; that leaves 7. Eliminate the first 5 of the seven (the corrupt freaks), and that leaves Echeverria and Richard. Richard served in the last inspection, and he was found by Fernando Reyes, who has turned out to be a good friend of the case. Richard showed some surprising independence, telling the judge quietly that Texaco's sampling was bullshit. The question is, do we push for Reyes himself or Richard? At first, I thought the idea Reyes would not be the perito was a case killer. I simply am loathe to spend much more money on the case not knowing if we can get a damage claim before the court, which essentially would prevent us from winning the case before a decision can even be made. I trust Reyes; I don't know Richard, even though he looks promising. So I met Richard with Reyes on Sat afternoon in the Hotel Quito, one of my endless series of meetings. He was a humble man, not very sophisticated, but he seemed smart and under-stated – maybe the perfect foil for Chevron, but there is no way to know for sure so there is risk. Reyes things we should go with Richard, and he can help him. The problem is that Wray made some dumb-fuck agreement with Callejas at the first inspection where they agreed the perito for the GP would come from somebody who had actuado en the trial. I have no idea what the reason was for this limitation, perhaps it just seemed logical at the time before we knew how useless the peritos and the dirimentes would be. To get out of this agreement the judge would have to impugn all peritos from both sides plus the 7 dirimentes. Actually, the only two dirimentes who have not been impugned at the final two. So we would have to impugn them to have any chance of getting Reyes, which might help anyway. The entire process is so ass-backwards.

Still big issue on social component. Two issues: Padre who knows Pablo (we write or he writes), and the Spanish guy. I am so not on top of this. Talking about encuesta of 1,000 homes. I am not keen on this, but Esperanza is pushing it.

Pablo: 8 asasinios in 15 days in Sushi; William says he is being prosecuted for terrorism; LY did not even know about it, we are so busy and it so much a part of the bullshit culture. We must talk to Petroecuador about it. His brother has a death threat. Relates to Pablo's work about PetroEcuador laying tubes and getting people to stand up for their rights. Caller ID in Shushu h.r. office was from inteligencia military. Pablo did some sort of denuncia.

We talked about upcoming settlement discussion...decided purpose of meeting to see if it would be worth to have a real meeting. Must have reps in real meeting.

I have never felt so overwhelmed in the entire history of this case. So much to do, plus the legal work. How are we going to do and write the Global in 120 days? The alegato? Keep everybody alive? I told Berlinger the other day that I think this case is going to end favorably, but in a way nobody can possibly foresee – like through a tragedy forcing them to settle.

Feb 8 (Thursday)

We got the judge's providencia. Not as bad as we thought, as usual. Denied Chevron on everything, said he would appoint perito or peritos from group that had served. But one scenario is that he wants to be attacked by both sides to protect himself, and then he will revert to original Fernando plan. Plan B, Richard, is not so bad and might even graduate to Plan A. I am much more calm about it, but we are not out of woods yet on what is probably the most imp legal decision to date.

Saw William last night. Ken Robertson, Chevron's VP, flew down and had lunch with him and McMillen. Robertson called Pablo an "over-wrought extremist"; McMillen said the remediation was perfect. I called Pablo today and said his security threat has increased, to tener cuidado. William telling them he was doing a profile on Pablo was reckless – who knows what they will know do to dig up shit on Pablo to discredit him or have one of their local goons take action. But I cannot blame William that is no his problem and the VF publicity will likely offer Pablo a level of protection that he did not have before. The first thing they did was explain about Outside, trying to scare him off the story. The problem again is the local crew who can act outside the scope of their authority so easily and hurt somebody.

Talked to Luis about security tonite on walk home from Noe. He admits he will be a kidnapping threat if we win, people will think he is rich. We need bodyguards. It is almost a prestige thing in Ecuador – saw Carlos Vera with bodyguard in Hotel Quito, corner table, y a sub-teniente, which is very high rank. For us, it is politically unpalatable to have a bodyguard, but hugely risky not to have anything. I told LY that 30,000 people were counting on him and Pablo, so it was not really a personal decision, but also a decision of the lucha. And I told him I was worried for myself, especially with a wife and a kid now. He said was it machista (their attitude), or valiente?

Went to Guayas today to do saturation interviews with LY and Juampa and MEY. On Radio Cristal, I outed Ortiz for the first time. The folleto was perfect, the radio hosts were reading from it. Doing radio is like therapy for all us – we get real high when we do it, and Guay offers us more political space. Tex has no voice there and no capacity to cover any territory other than Quito. I met also with Santiago Roldos and Carlos Gutierrez – two of my favorite journalists in country. To Gutierrez I pitched the the hot docs, the trial before Sand as a thought piece on what arbitration means for Ecuador, and an update on the trial and following Ann Maest through the jungle as she begins the PG. Santiago is the most sensitive, touching guy. He teaches acting and has a theater group. His columns are so intelligent. He talked about his parents. He lost them when he was 7.

It is like JFK, everybody remembers where they were – LY says he cried, he was studying when he heard the news about 8 p.m. He lost both his parents. He wanted help with the National Archives and doing a documentary. He said he does not know to this day if it was an accident, or if they were killed. There was never an investigation – just a 9-day explanation, and the engine has disappeared. I think we should do something. We want to help, and he wants to meet Joe Berlinger.

I have never been so busy or excited. The team is incredibly stronger with MEY1 and MEY2, and we are going to bring in a third person and probably get rid of Sylvia. Correa has a radio show and cabinet meeting from Tena, so we are trying to get him to talk about the theme. Lupita saw Monica Chuji today.

Issue of ICJ case against Columbia and Raul, competition with Reichler, me wanting to get APV to make his own proposal. The entire issue is instructive of how Ecuador always looks to gringos to solve problems when APV could do it for 10% of the cost.

The Outside article is hurting me... Joe said it was not fair to me. Lehane says welcome to the bad-ass club. I don't mind being a bad-ass, but I do mind that Masss was dishonest. I have to do something. Do I have the stomach for this?

Feb 7 (Wed)

This week has turned into a real pressure cooker. I was nervous that everything was going too well, and now I realize for good reason. There is always some problem hiding under the nearest rock, ready to activate and harass us at any moment. The latest is the judge feels bound by an agreement Wray made with Callejas in the first inspection to use peritos already appointed by the court. I thought we had worked this out with the judge, and that Fernando Reyes would be appointed the perito. We have been working with him in preparation. Now, the judge feels he cannot do that. This is a function of T's pressure campaign – Callejas submitted 30-pages of crap yesterday morning. The judge told William of VF that Pablo made a mistake, did not arrive with his full team. It was a critical meeting yesterday with the judge – Callejas walked out when Yanza spoke, then came back in. Pathetic. I should have been there. Julio should have been there on time, and flown down on Sunday. The VIP flight full so had to go to Coca, and did not get to meeting until 10:45. Callejas and Pelusa stayed all day, left Tuesday morning. What were they doing? APV and I both talked to judge by phone – he had no space to hear us. I was really angry at Julio – he said we had won nine out of ten steps, this is not bad. He is naïve – he doesn't get how power works. How can APV not show up at the critical meeting?

To deal with this, we were using Veronica's cell phone for security reasons. I am worried for Pablo's security. William of VF is taking all his notes – he gave his care to Texaco yesterday after the judge's meeting and they sent security to look for him. Sara McMillen is in town and is meeting him for lunch. I am sure they are having corporate meetings over how to deal with VF. Saw William again last night after 9 days. He is a little nervous, talked about fear of getting sued for libel and getting the

article past his lawyers. I need to take him through the science and I am still worried I don't completely have it together. Fausto Penafiel is nowhere to be found.

The fundamental problem is that we will not be able to get out damage claim before the court, and Texaco will have an equal right to pressure and manipulate the perito. The legal argument against it: all peritos have been impugnado, and the derimentes were appointed illegally. That is the legal argument. Again, shows institutional weakness of court and personal weakness of judge. He is going back on his agreement with us. He is weak, and he is scared. It is amazing how this entire effort can be spoiled or threatened by one decision.

Met with President of Supreme Court yesterday (get name). Describe phone call to Yanez – said hurry up, set a 45-day plazo. Amazing performance – 5 minutes total, bravura performance, absolute example of how politics works in Ecuador. It might have actually hurt us, even though it did not appear to at the time, by forcing Yanez to hurry up and make the wrong decision, rather than wait and try to make the right decision after we explain it to him.

Met with Chang, the health minister. Crappy building, cannot even find a bathroom – reflects how little money government has given historically to health care. Was not aware of cancer issue or problems, but was very interested and responsive. She said she would present the issue to the Cabinet on Friday in their meeting in Tena (Correa is having cabinet meetings in the provinces). Her assistant, Beatrice, indicated that the Min of Health historically did not deal with petroleum issues. Suggested inter-institutional cooperation among ministries. We have new folleto – we need to bring her materials today.

Kohn left msg – Collingsworth called him, and asked if there was a mediation. CB and Terry are fishing around. Maybe they want out of their case in SF, maybe they want to fuck with us and blast us in front of our clients, but this is definitely a CB plot to do something. Remember, CB just took me on in Outside magazine.

Raul's two-hour meeting with Correa. Correa hired him for three matters – Colombia fumigation, Oxy, and Texaco. He said Correa is serious and wants a legacy. Wants to see list of lawyers who are hurting the country. Issue with Reichler and Lehane lobbying.

Feb 4 (Sunday – returning to Ecuador)

Emotions smung wildly last week. On Friday, Kohn called and said Cullen called him back to set up a meeting for Feb. 14 at 9 a.m. Sort of feel like it is all coming together, but risks are still great because of Sand. The key is this week – getting the PG ordered

with a date certain for passage. That, combined with the pressure of the Sand matter coming to head, is probably enough to scare the shit out of Chevron. If VF lets is be known they are down there, plus Berlinger film, all the better.

Outside magazine article comes in mail via Lou. Made me look like a rabble rousing jerk; Peter Maas used me. Chevron will be able to use that article against us down the road. He even quotes Cristobal against me. How much longer can I go holding fire against Cristobal? I realize cooperating with Peter was a tactical mistake. He is a cynical journalist; I am much better off behind the scenes for many reasons. Now I have to worry about William, the VF reporter. Emotionally, I feel golpeado – the shadow editor thing all over again. It was mildly complimentary – after watching me, he feels sorry for Chevron. I am trying to be cool and go on, but I am really bothered by it. I am such an easy target – I need to lay low. One thing that does come clear is that we are really under their skin.

Worked extensively with Winston on the documents for the Reply brief. The papers they filed on Tuesday were weak (see my long email to them), and I really feel they are still playing catch-up but not carving out the space to make their arguments. Everything is on the defensive. They are weak, weak, weak. But they are smart, smart, smart. Got them a bunch of stuff. It could be so much worse. Chevron is pounding them as if they are us (the collusion), while they are not pounding back as if they were us. The pathetic Cullen wrote a letter to Eric threatening him about Fact #89 on the issue of whether a remediation actually took place. We are really under their skin.

Met with Heather and Shawn, with Berlinger filming. Sometimes I feel I am letting Berlinger in too much as well. I am starting to get paranoid as a result of the Maas story.

Hanna quit – MEY starts saying I don't adequately appreciate the work of the people in the office. I am sure Lupita behind, with her manipulations. Must get there tonite to bank out impuestos press release.

Jan 26 (Friday)

Death of Ministra – really learning about Ecuadorian politics, and really understanding the need to learn about it. Touched me greatly.

Must meet Galo Chiriboga. Do CIADI thing.

Long meeting about strategy – agua potable and stop contaminating.

Made pamphlet.

Great trip to Gquil canceled

Talked to APV: FC, Banks, Germans, Bankers

Jan 23/Quito (Tuesday)

Guayasamin party for Evo's 1st anniversary: Monday was incredible – went to foundation ceremony in morning (what Pablo had asked that I stay for) and met ambassadors of Bolivia, Venezuela, and Cuba – Alexis and Paco Velasco were there too. Lupita said I should not wear a suit and a tie – that the proper outfit if you are “of the people” is not that. I am not so sure but I know what she means to say. Especially since Evo never wears a tie, and Correa did not wear a tie to his inauguration. Not even Obama is wearing a tie these days. At night party was so colorful and interesting. Talked extensively to Cuban ambassador. He served in Afghanistan under Najibullah, then in Prague for several years. A really smart, career diplomat. He said diplomats from both his country and mine were under orders not speak or interact with one another. Also met the PC chief at the embassy whom I remember from years ago Pablo could not have been nicer – met the dentist, the dance guy, the architect for the Capilla, Luis Macas, Richard – it is the only place where indigenous leaders and the burgesa easily mix. Pablo is obviously single-handedly providing the glue to hold much of the left together. Still introduces me as the “cabeza” of the lawsuit which I don't like but that is fixable. And it is obvious that the left in Ecuador is getting huge encouragement from the Cuban and Venezuelan governments.

Raul advised not to go thru ambassador because he said many in PDVSA at lowest level would try to stop us from them putting pressure on Chevron. Good advice. PDVSA is a commercial company and we cannot forget that.

The idea is to somehow close the doors of Latin America to Chevron so that the cost of not cleaning up Ecuador becomes higher than cleaning it up. Then we win – assuming they can get over their psychological hurdles.

Correa image is already suffering. His impetuousness is getting on the nerves of people, and there is talk (in typical negative Ecuadorian fashion) of his government collapsing in 6 months to a year. Lucio made a “pacto” with Noboa and Febres Cordero. He is dealing the political parties, and there is near-unanimous opinion that some of his cabinet ministers are not up to snuff – particularly the foreign minister, and I already saw what a total idiot the Minister of the Environment is.

Bonifaz: contacted SF law firm to work out global settlement – the guy won't go away. I told Raul to be straight with them. The firm called Neil and now they are going to call Raul. CB was be telling them he has power to settle all cases even though he has no authority to speak for Lago plaintiffs – just like the Jeff Frazier issue.

VF coming – I have to stay longer, will be my third weekend I here for first time.

MEYs started and planning trip to Guayas for Thursday.

Jan 21/Quito (Sunday)

Things lining up for us: New York, 90 day plazo for PG, MEY coming back to work for us, desperation as reflected in Texaco's papers, Correa election, unity of team, Berlinger film, possible Vanity Fair.

Pablo Guay trip to jungle: On Friday (Jan 19), went to jungle with Pablo Guay and Kelly McBride, Pablo, Luis, Lupita, and the film crew. Kelly gasped when she saw the Guanta pit. Pablo talked about need for a film, he can distribute – talked to Joe about it. He invited me to come to an event Monday night at the Museo to honor Evo's first inauguration where I could meet cabinet ministers, ambassadors, etc. He explained how hard it was to come and go, that when you come back you are back to "nada" – and he encouraged me to stay. Said he could help with Venezuela and every country in Latin America. We talked extensively about Ortega, Tomas Borge, and other Sandinistas. I couldn't turn him down as much as I was looking forward to going home on Sat to Laura and Mateo. When I told Laura I was staying we had a series of very negative conversations where she accused me of choosing work over family. It was really unpleasant, but I have made the right decision. There are three things I have yet to complete: the materials for the Cullen meeting, the communications plan and the MEY personnel change, and following up with Pablo Guay. I realize now that I am probably going to need to spend two weeks per month here to take advantage of the new coyuntura.

Visit Guanta again, meeting a bust in San Carlos: Visited Lago 1, Lago 24 (where Tex remediated and Donald showed it was bullshit), and Guanta. I have noticed it is increasingly difficult to find open air waste pits. The pit at Guanta – the disgusting one – has gone down a bit given that PE is not longer using the pit to dump water of formation as they are reinjecting at the site. And there were no open air pits easily accessible between Lago and San Carlos. When we got to San Carlos (after the battery died and we had to push the van to jump start) the people who had been convoked did not show up. It was more than a little embarrassing. This was when we were supposed to present the results of the San Carlos inspection to the town and nobody came! As I told Joe Berlinger, why would you want to come hear the scientific results of a situation

Luis freaking out about money: LY emails – he is completely nervous about lack of money. Our phone and electricity will be cut off this week. We have received no money since November. LY feels the brunt of the pressure from creditors, the brunt of the pressure from the base communities, and the brunt of the pressure from staff who have not gotten paid. God, what I could do with 1 million. Swiller went silent, Russ I have not hid up yet. Joe K went on vacation without sending money, as he said he would. I

really wonder if the money is not in the bank or if he just has this problem about signing checks.

Frente leadership crisis: Luis is also worried about leadership crisis in Frente – he came up today on overnight bus from Coca, we took hike and met with MEY, and then LY going back on 5 p.m. bus for morning meeting with Pablo and Frente leadership.

Jubilation over Winston papers: I started reading the Winston papers on the way back on the plane from Coca to Quito. I got up to page 22. Later that night, I went out to dinner with Andres, Steph, etc., for Steph's 40th birthday... and stayed up real late. I couldn't wait to finish it. I think it is a masterpiece – a Rembrandt, really, particularly on the JOA/arbitration issue. All of Eric's technical arguments about the Anti-deficiency Act suddenly came alive like the most beautiful flowering sprouting in a place where you would least expect it. This totally changes the calculus of the Cullen meeting and everything else we are going.

Possible Cullen meeting: Before Joe K went on vacation the week of Jan 8, he called Cullen and Cullen agreed to set up a meeting when Kohn got back – probably at the beginning of Feb. When Pablo came, I discussed with legal team here and they agreed I should go forward despite the risks of being slammed afterwards by our enemies, such as Kimerling, Cristobal, etc. Anyway, JK said that Cullen gave his song and dance, saying the number would have to be less than 100m and they were worried about finality. Blatant conflict of interest between lawyers and clients. Said he already spoke to Bonifaz about a medical fund. I am worried about Kohn undermining me in negotiations.

Bonifaz case update: Worried about his case – could still get in way of settlement, if Tex smart they settle with him for a small amount, he comes down and acts like hero and we are cut out on the big amount, plus it could divide the communities. We are trying to find out what days his clients are planning on traveling to the USA.

Jan 19/07 (Quito)

Yesterday was one of those utterly incredible days that make me feel so appreciative that I am doing this. Key things:

Got the papers on summary judgment on both sides and was really depressed the day before (Wed). I had that same sinking feeling that I had on the plane ride with Abady to Ecuador in January of 1994. They are just do good at what they do, but they are so slick about it. They distort so many facts without technically lying.

On phone call I pointed out the main point: that they are completely distorting the Lago case by trying to make it appear different than the Aguinda case filed in 1993.